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12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA

14 MICHAEL CREMIN

C 07 1302
COMPLAINT FOR
ERISA BENEFITS

15 Plaintiff,
16 vs.

17 MCKESSON CORPORATION EMPLOYEES'
LONG TERM DISABILITY PLAN,

18 Defendant

19 _____ /
20 LIBERTY LIFE ASSURANCE COMPANY
OF BOSTON,

21 Real Party in Interest
22 _____ /

23 Comes now plaintiff alleging of defendant as follows:

24
25 **Jurisdiction**

26 1. This suit seeks review of a failure to extend benefits under a long term disability
27 plan covered by ERISA, 28 U.S.C. 1132. Federal jurisdiction arises under 28 U.S.C. 1132(f).
28

Facts

3 2. Plaintiff is a beneficiary of McKesson Corporation Employees' Long Term
4 Disability Plan which resides within this judicial district. The plan is covered by the Employee
5 Retirement Income Security Act of 1974.

7 3. Real parties in interest, Liberty Life Assurance Company of Boston are
8 corporations which acts as fiduciaries of the plan, insures the plan and has taken over as the decision-
9 maker of for disability benefits under the plan.

11 4. Plaintiff became disabled on September 9, 1998, during his employment by
12 McKesson Corporation and while covered under the plan which provides for payment in the event of
13 disability.

15 5. Plaintiff remained disabled through the elimination period of the Plan, which ended
16 March 5, 1999.

18 6. Plaintiff applied for and was granted Long Term Disability benefits from the Plan
19 effective May 17, 1999.

21 7. Plaintiff also applied for Social Security Disability benefits and was awarded
22 benefits of \$445.80 per month by letter dated August 16, 1999.

24 8. The Plan demanded repayment in the amount of \$11,640 and plaintiff repaid the
25 amount on December 1, 1999.

27 9. The Plan terminated plaintiff's benefits on August 30, 2002 and plaintiff appealed
28 the decision on October 30, 2002. The appeal was denied on December 6, 2002. Therefore, plaintiff

1 filed suit on October 18, 2004 in the United States District Court, Northern District, Case No. O4-
2 4394CW,

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4 10. On November 7, 2005, defendant file a cross-motion for judgment which was
5 granted on December 21, 2005 by the Honorable Claudia Wilken. Plaintiff's claim was remanded to
6 the Plan Administrator for further investigation.

7

8 11. On October, 10, 2006, defendant advised plaintiff that they had completed the
9 supplemental investigation and had determined that they were unable to alter their original decision
10 to deny benefits beyond August 31, 2002.

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12 12. On December 10, 2006, plaintiff requested an appeal of the decision.

13

14 13. Defendant denied plaintiff's request to initiate an appeal on January 19, 2007.

15

16 14. As a proximate result thereof, plaintiff has been damaged by the loss of benefits
17 from August 31, 2002 until he reaches age 65 on December 24, 2012 at the rate of \$3200 monthly
18 (\$4655 benefit less \$1455 SSDI payment) for a total loss of \$393,600.

19

20 15. Plaintiff has been compelled to retain counsel to collect the benefits owed, and is
21 entitled to reasonable attorneys fees under ERISA in an amount dependent upon the extent of
22 litigation required and estimated at \$300,000. through trial.

23

24 Wherefore, plaintiff prays for relief as set forth below:

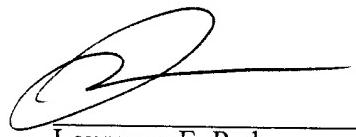
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26 1. For benefits, past and future, for long term disability, as provided by the terms of
27 the plan in the amount of \$ 393,600 plus interest according to proof;

28

- 1 2. For attorneys fees of \$300,000 or according to proof;
2
3 3. For such other relief as the court deems just and proper.
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5 Dated: February 21, 2007



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7 Laurence F. Padway
8 Attorney for plaintiff

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